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EXAMINER
ELALLAM, AHMED

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent-ch@btlaw.com

Continuation:

Applicants argue that Iryami does not anticipate the claimed invention of at least the independent claims. Applicants argue that:

"In the instant application, the error performance of a channel is given a category, and each time the category changes, a table is updated. The claims require at least two different categories. The claims also require the table to include information for time intervals which together define a continuous succession of time intervals." Emphasis added.

Examiner notes that the limitations of "the error performance of a channel", "each time the category changes, a table is updated" do not appear in the independent claims as alleged. Therefore the argument is irrelevant.

Further Applicants argue that:

"Iryami only discloses one threshold. Even if Figure 4C is considered to show a short period of time of null error rate (corresponding to a "perfect time interval") there is no record taken in Iryami of the time at which this "perfect time interval" ended and a different time interval began. Iryami simply discloses a system in which a record of the re-synchronization events is provided, and these correspond to a single threshold being reached.

The null error rate of Iryami does not have any corresponding time interval for which a record is generated. The time intervals are required by the instant application to be in a continuous succession.

Thus, the claims require a record to be taken of a time interval (for example the perfect time interval) but also a record is required to be taken of the time interval which immediately follows and which corresponds to a different signal characterization. Iryami discloses no information which can be considered to relate to two different time intervals in respect of different signal characterizations." Emphasis added.

In response, Examiner respectfully disagrees, as previously indicated in the final rejection:

"Iryami discloses measuring bit error rate of a signal over time by allocating bit error thresholds selected from a plurality of bit error rate thresholds, the thresholds corresponding to triggering events, see figure 4B and 4C, column 9, lines 63-column 10, line 29. Iryami also discloses generating a log that describe each triggering event and data relating to these triggering events is captured and stored, see column 10, lines 13-15, and lines 27-29. Iryami, Further shows with reference to figure 4C, a period of time during which the bit error rate is null (corresponding to claimed signal quality characterization comprise a perfect time interval). Iryami also discloses triggering event (used for data capture for analysis) may be the bit error rate crossing a particular threshold (e.g., **10.sup.-12** errors/second or **10.sup.-9** errors/second). See column 7, lines 66-column 8, and line 6. It should be noted that Iryami **associate the triggering events' thresholds with the bit error rate values (e.g., 10.sup.-12 errors/second or 10.sup.-9 errors/second)**, the values (error rates) associated with the threshold correspond to the claimed "**signal quality characterizations**".

The difference between Iryami and Applicants is a **matter of lexicography**. Iryami did not choose to specify at least two thresholds associated triggers with his own terms such as Perfect Time Interval, and Errored Time Interval. Iryami, however as discussed above, discloses signals with null time intervals, and signal with measured the bit error rate of 10.sup.-12 errors/second which can be considered as an Errored Time Interval".

Therefore, the measuring bit error rate of a signal over time by allocating bit error thresholds selected from a plurality of bit error rate thresholds, the thresholds corresponding to triggering events, (see figure 4B and 4C, column 9, lines 63-column 10, line 29) and generating a log that describe each triggering event and data relating to these triggering events is captured and stored, (column 10, lines 13-15, and lines 27-29) reads on " the time intervals that are required to be in a continuous succession and the record to be taken of a time interval".

Further and contrary to applicants argument, figure 4C shows a record of null time interval, wherein the bit error count is null, as well as time intervals having different bit error rates, represented by a continuous graph, it should be noted that the continuous graph representation is in fact a representation of successive plots of error bit rates and the corresponding time intervals. Given this interpretation, Iryami is believed to anticipate the invention as recited in the independent claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AHMED ELALLAM whose telephone number is (571)272-3097. The examiner can normally be reached on 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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